

Patent
Attorney Docket No. 13777-45

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Karine VALLE et al.

Group Art Unit: 1796

Application No.: 10/542,768

Examiner: Ling Siu Choi

Filing or 371(c) Date: April 5, 2006

Confirmation No.: 1613

Title: Organic-Inorganic Hybrid Material Comprising a
Mineral Mesoporous Phase and an Organic Phase, a
Membrane and Fuel Cell

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In complete response to the Restriction Requirement mailed April 6, 2009, Applicants provisionally elect Group I, claims 31-49 and 61-67, drawn to an organic-inorganic hybrid material, for prosecution in the present application. The provisional election is made *with traverse*. Applicants reserve the right to file divisional application(s) based on the non-elected claims.

As set forth in the Administrative Instructions under the PCT published in the PCT Gazette S-03/2001 (August 30, 2001):

(e) Combinations of Different Categories of Claims. *The method for determining unity of invention under Rule 13 shall be construed as permitting*, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

(i) *in addition to an independent claim for a given product*, an independent claim for a process specially adapted for the manufacture of the said product, and *an independent claim for a use of the said product...*

(Emphasis added). In addition, PCT Gazette S-03/2001 provides illustrative examples providing guidance for making a determination of unity of invention in particular cases. These examples are provided in the attached Exhibit 1. The relationship between the claims

of Groups I, II, and III in the instant application is the same as the relationship between claims 1, 2, and 3 of Example 1, which claims are considered to have unity of invention. In the present application, Group I, claims 31-49 and 61-67, are directed to a product, i.e., an organic-inorganic hybrid material; Group II, claims 50-52, are directed to a use of the product, i.e., a membrane, an electrode, and a fuel cell comprising an organic-inorganic hybrid material; and Group III, claims 53-60, are directed to a process for manufacturing the product, i.e., a process for preparing an organic-inorganic hybrid material. The common special technical feature is the organic-inorganic hybrid material. Based on the foregoing, Applicants submit that pursuant PCT Rule 13, the claims of the instant application have unity of invention.

In addition, Applicants note that the claims for which the International Search Report was issued were amended during the international phase to be patentable over the references cited in the International Search Report, including all of the X references. The amendments were incorporated into the Preliminary Amendment filed with the application on April 5, 2006. Accordingly, Applicants submit that the current claims are novel in view of all of the references cited in the International Search Report, including all of the X references. As such, Applicants respectfully request reconsideration and withdrawal of the Requirement for Restriction.

Although it is believed that no fee is necessary, the Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 23-1925.

If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

BRINKS HOFER GILSON & LIONE

Date: 5/21/09

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